

SENATE BILL 2936

By Bunch

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 39, relative to receipt of public benefits.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, is amended by inserting Sections 2 through 5 below as a new, appropriately designated chapter thereto.

SECTION 2. It is the public policy of the state of Tennessee and the purpose of this chapter that all persons eighteen (18) years of age or older shall be present lawfully in the United States prior to the receipt of certain public benefits.

SECTION 3. As used in this chapter, unless the context otherwise requires:

(1) "Emergency medical condition" has the same meaning as provided in 42 U.S.C. § 1396b(v)(3);

(2) "Federal public benefits" has the same meaning as provided in 8 U.S.C. § 1611(c); and

(3) "State or local public benefits" has the same meaning as provided in 8 U.S.C. § 1621.

SECTION 4.

(a) Except as otherwise provided in this subsection (c) or where exempted by federal law, on and after July 1, 2008, each agency or political subdivision of the state shall verify the lawful presence in the United States of each natural person eighteen (18) years of age or older who applies for state or local public benefits prior to providing or continuing to provide such benefits.

(b) This section shall be enforced without regard to race, religion, gender, ethnicity or national origin.

(c) Verification of lawful presence in the United States pursuant to this section shall not be required:

(1) For any purpose for which lawful presence in the United States is not required by law, ordinance or rule;

(2) For obtaining health care items and services that are necessary for the treatment of an emergency medical condition of the person involved and that are not related to an organ transplant procedure;

(3) For short-term in-kind emergency disaster relief;

(4) For public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease;

(5) For prenatal care; or

(6) For services or assistance provided by public or private non-profit agencies or programs, including, but not limited to, food banks, crisis counseling and intervention, and short-term shelter care, so long as such programs, services or assistance:

(A) Deliver in-kind services at the community level;

(B) Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and

(C) Are necessary for the protection of life or safety.

(d) An agency or a political subdivision shall verify the lawful presence in the United States of each applicant eighteen (18) years of age or older for state or local public benefits by requiring the applicant to do both of the following:

(1) Produce one (1) of the following forms of identification:

(A) A valid United States driver license;

(B) A United States military card or a military dependent's identification card;

(C) A United States coast guard merchant mariner card; or

(D) A native American tribal document; and

(2) Execute an affidavit stating that the applicant is a United States citizen or legal permanent resident or that the applicant is otherwise lawfully present in the United States pursuant to federal law. An agency or a political subdivision may assess a reasonable fee for any form or notary services provided pursuant to this subsection.

(e) Notwithstanding the requirements of subdivision (d)(1), the commissioner of finance and administration is authorized to promulgate rules and regulations, provided such rules and regulations shall be effective only until March 1, 2009, providing for additional forms of identification or a waiver process in order to ensure that persons who are lawfully present in the United States, including homeless persons, receive benefits that they are authorized to receive. Such rules and regulations shall be promulgated as public necessity rules pursuant to § 4-5-209.

(f) A person who knowingly makes a false, fictitious or fraudulent statement or representation in an affidavit executed pursuant to this section commits the offense of aggravated perjury as defined in § 39-16-703.

(g) For an applicant who has executed an affidavit stating that the applicant is an alien lawfully present in the United States, verification of lawful presence for federal public benefits or state or local public benefits shall be made through the federal systematic alien verification of entitlement program, referred to as the "SAVE program",

operated by the United States department of homeland security, or a successor program designated by the United States department of homeland security. Until such verification of lawful presence is made, the affidavit may be presumed to be proof of lawful presence for purposes of this act.

SECTION 5.

(a) No person who is not lawfully in the United States shall be eligible to receive public benefits. No agency or political subdivision of this state shall provide a state or local public benefit in violation of this section. Each state agency or department that administers a program that provides state or local public benefits shall provide an annual report with respect to its compliance with this section to the governor and to the speakers of the senate and house of representatives no later than February 1 of each year.

(b) For the purposes of this section, a public benefit shall include:

- (1) Grants, contracts or loans;
- (2) Professional licenses or commercial licenses;
- (3) Employment;
- (4) Retirement payments or benefits;
- (5) Public assistance benefits, including Families First benefits, assistance to the blind or disabled, or food assistance;
- (6) Health care benefits and public health care benefits, including TennCare, CoverTennessee, and any successor program or new health care program sponsored or provided by the state or a local government;
- (7) Disability benefits or assistance;
- (8) Public housing or public housing assistance; and

(9) Instruction at an institution of higher education under the jurisdiction of the Tennessee board of regents or the University of Tennessee trustees.

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 7. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2008, the public welfare requiring it.